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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,096	02/03/2004	Philipp H. Schmid	M61.12-0620	2574
27366 7590 05/26/2009 WESTMAN CHAMPLIN (MICROSOFT CORPORATION) SUITE 1400 900 SECOND AVENUE SOUTH MINNEAPOLIS, MN 55402				
EXAMINER				
KOVACEK, DAVID M				
ART UNIT		PAPER NUMBER		
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05/26/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Response to Amendment

1. The presented amendments to the claims will not be entered because they are not deemed to place the application in condition for allowance, do simplify the issues relevant to an appeal, or materially reduce the issues relevant to an appeal.

Response to Arguments

2. Applicant's arguments filed 05/11/2009 have been fully considered but they are not persuasive.

Specifically, the applicant argues with respect to the disclosure of Gergic (US PGPUB 2002/0198719; cited previously) in relation to the limitations previously presented in **claim 6**.

The applicant argues that:

“With respect to claim 6, the Office Action stated that the teachings in Gergic are based on the programming language of Java, and therefore, inherently require that all members of objects be specified and invoked in a well-defined way as determined by the finite number of implementations of Java. Based on this contention, the Office Action stated that the broadest

reasonable interpretation of 'consistent' merely requires the same set of techniques be available to specify and invokes [sic] members of all types.

Applicants respectfully disagree with this contention (Remarks of 05/11/2009: Page 7, paragraph 03—Page 8, paragraph 01)."

Specifically, the applicant argues that "the present application states that the programming models and associated members for implementing the speech-related features and the non-speech related features *are designed consistently using the same design principles* [emphasis in original] (Page 8, paragraph 01)." However, the examiner contends that while this disclosure may be present within the specification, it is not necessarily required by the broadest reasonable interpretation of the limitations of the claims, which merely state that wherein the speech related members and non-speech related members are designed to be specified and invoked in a consistent way. The examiner maintains that the broadest reasonable interpretation of "specified and invoked in a consistent way" to one of ordinary skill in the art includes instantiation and access of said members within the confines of a well-defined programming language, such as Java. The examiner further notes that it appears that the applicant is interpreting the claims in view of the specification inappropriately. The applicant has not provided any specific arguments, evidence, or reasoning to discriminate the limitations of the *claims* from the teachings of Gergic, and has instead relied upon the disclosure of the specification to distinguish the teachings of the instant application with those of Gergic in this regard.

The applicant further argues that the teachings of Gergic are incongruous with the limitations of the claims, stating in the Remarks of 05/11/2009 (Page 8 ,paragraph 02) that "Gergic expressly discloses that it is virtually impossible to develop the service objects using the same language as for the dialog objects (i.e., VoiceXML), and that consideration should be given to using some native programming language (Gergic, page 23, paragraphs 0110 and 0111)."

It is noted by the examiner that the exact teachings of Gergic state in paragraphs 0110-0111 are directed to the idea that "Service objects also provide dynamic access to data sources...the required functionality of dynamic data source access objects makes it virtually impossible to develop such access objects using *VoiceXML* [emphasis added] (Page 23, paragraph 0110)." This disclosure is therefore directed to the narrow implementation of the VoiceXML aspects of the system of Gergic, and not to the larger subset of implementation in Java-type languages. In fact, Gergic explicitly discloses the utility that a "full-fledged object-oriented procedural language (Java) is used for implementing the server-side reusable *voicXML* dialog beans (Page 21, paragraph 0090)" and also indicates that in a preferred embodiment the system comprises a JSP (JavaServer Pages) framework with which to provide the dialog components (Page 21, paragraph 0081). The implication in the teachings of Gergic being that Java is a preferred platform for the implementation of the dialog components as well as the server-side system itself. This is further supported by the disclosure of Gergic that "...VoiceXML pages are dynamically

generated by JSPs that call beans>" and that "Beans are classified as...(2)service beans that perform other tasks (such as dynamic access... (Page 21, paragraph 0082)." Gergic further discloses that "Another advantage is that developers who use the reusable VoiceXML dialog bean just need to author VoiceXML templates (JSPs, ASPs, PHPs) that call the rendering code of the reusable VoiceXML dialog beans as the can involve other service beans (Page 23, paragraph 0098)." The examiner contends that these disclosures support the idea that Java-based framework as taught by Gergic can be used in manner that can access service objects on the server-side.

It is additionally noted by the applicant still does not provide sufficient and object arguments, evidence, or reasoning to discredit the original assertion that the broadest reasonable interpretation of "consistent" is inherent in a system such as that disclosed by Gergic because any system implemented using computer-based methods requires a finite set of operational behaviors. In this manner, even if the disclosure of Gergic were insufficient, *arguendo*, as the applicant has asserted, such a system would still inherently need to be self-consistent within the context of the larger computer-based system, or it would not be operational.

For at least the above reasons, the applicant's arguments are non-persuasive. It appears that all remaining arguments with respect to the previous rejection are based on one or more of the above arguments, and for that reason, they are similarly non-persuasive.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Kovacek whose telephone number is (571)270-3135. The examiner can normally be reached on M-F 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Hudspeth can be reached on (571) 272-7843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David R Hudspeth/
Supervisory Patent Examiner, Art Unit 2626

DMK, 05/20/2009